



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

201547012

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

AUG 27 2015

Uniform Issue List: 402.00-00

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Legend:

Taxpayer A	=
Company B	=
Plan C	=
Financial Institution D	=
Account E	=
Financial Institution F	=
Individual G	=
Company H	=
Amount 1	=

Dear :

This letter is in response to a request for a letter ruling, dated April 29, 2015, as supplemented by correspondence dated July 6, 2015, in which you request a waiver of the 60-day rollover requirement contained in section 402(c)(3)(B) of the Internal Revenue Code ("Code"), regarding the distribution of Amount 1 from Plan C.

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested.

Taxpayer A represents that she received a distribution of Amount 1 from Plan C. Taxpayer A asserts that her failure to accomplish a rollover of Amount 1, within the 60-day period prescribed by section 402(c)(3) was due to an error by Financial Institution F which failed to follow her instructions that Amount 1 be deposited into an individual retirement account (IRA). Taxpayer A further represents that Amount 1 has not been used for any purpose.

Taxpayer A was employed by Company B and participated in its qualified retirement plan (Plan C). The custodian and administrator of Plan C was Financial Institution D. Upon her retirement from Company B on February 17, 2012, Taxpayer A decided to roll over her account balance (Amount 1) in Plan C to an IRA with Financial Institution F. She discussed the intended transaction by telephone with a representative of Financial Institution F. Specifically, she instructed Individual G that Company H would transfer Amount 1 from Plan C to Financial Institution F for deposit by direct rollover into an IRA. The transaction occurred on April 4, 2012.

Taxpayer A intended to roll over her full account balance (Amount 1) in Plan C. She felt she would accomplish this if Financial F followed her instructions provided to Individual G. Taxpayer A represents that she, in good faith, relied on what she told Individual G and assumed the full account balance (Account 1) would be rolled over to an IRA. Evidence of Taxpayer's intent to roll this distribution to an IRA is "Distribution Code G" (Direct Rollover) marked on Form 1099-R which was prepared by Financial Institution D. However, Amount 1 was deposited into Account E, a non-IRA account with Financial Institution F. The ruling request is accompanied by a letter from Financial Institution F, dated June 30, 2015, in which it admits it failed to follow Taxpayer A's instructions that Amount 1 be deposited into an IRA.

Based on the above facts and representations, you request that the Internal Revenue Service ("Service") waive the 60-day rollover requirement contained in section 402(c)(3)(A) of the Code with respect to the distribution of Amount 1.

Section 402(c) of the Code provides that if any portion of the balance to the credit of an employee in a qualified trust is paid to the employee in an eligible rollover distribution, and the distributee transfers any portion of the property received in such distribution to an eligible retirement plan, and in the case of a distribution of property other than money, the amount so transferred consists of the property distributed, then such distribution (to the extent transferred) shall not be includible in gross income for the taxable year in which paid. Section 402(c)(3)(A) of the Code states that such rollover must be accomplished within 60 days following the day on which the distributee received the property. An individual retirement account (IRA) constitutes one form of eligible retirement plan.

Section 402(c)(4) of the Code provides that an eligible rollover distribution shall not include any distribution to the extent such distribution is required under section 401(a)(9).

Section 402(c)(3)(B) of the Code provides, in relevant part, that the Secretary may waive the 60-day requirement under section 402(c) of the Code where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. Only distributions that occurred after December 31, 2001, are eligible for the waiver under section 402(c)(3)(B) of the Code.

Rev. Proc. 2003-16, 2003-4 I.R.B. 359 (January 27, 2003) provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to sections 408(d)(3)(I) and 402(c)(3)(B) of the Code, the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country or postal error; (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The information presented and the documentation submitted by Taxpayer A is consistent with her assertion that her failure to accomplish a timely rollover of Amount 1 was due to an error by Financial Institution F.

Therefore, pursuant to section 402(c)(3)(B) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount 1 from Plan C. Taxpayer A is granted a period of 60 days from the issuance of this letter ruling to contribute no more than Amount 1 into an eligible retirement plan or rollover IRA. Provided all other requirements of section 402(c)(3) of the Code, except the 60-day requirement, are met with respect to such contribution, the contribution will be considered a rollover contribution within the meaning of section 402(c)(3) of the Code.

This ruling does not authorize the rollover of amounts that are required to be distributed by section 401(a)(9) of the Code.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

201547012

If you wish to inquire about this ruling, please contact  
#       ),       , at       or       (       ).

(I.D.

Sincerely yours,

*Carlton A. Watkins*

Manager  
Employee Plans Technical Group 1

## Enclosures:

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Notice of Intention to Disclose, Notice 437